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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 SANTOS DIAZ-HERNANDEZ,  
12 BOP #A090-059-312,

13 Plaintiff,

14 vs.

15  
16 SIX UNKNOWN NAMES AGENTS;  
17 BARACK OBAMA, President of the  
18 United States,

19 Defendants.

Civil No. 13cv2835 GPC (KSC)

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY  
FILING FEES REQUIRED  
BY 28 U.S.C. § 1914(a) AND/OR  
FAILING TO MOVE TO  
PROCEED *IN FORMA PAUPERIS*  
PURSUANT TO  
28 U.S.C. § 1915(a)**

20 Plaintiff, currently detained at the Etowah County Jail in Gadsden, Alabama, and  
21 proceeding pro se, filed an incomprehensible one-page complaint entitled “Civil Rights  
22 Action with the Writ of Summons and Complaint” “under 42 U.S.C. § 1983” on  
23 November 19, 2013 (ECF Doc. No. 1).

24 **I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

25 All parties instituting any civil action, suit or proceeding in any district court of  
26 the United States, except an application for writ of habeas corpus, must pay a filing fee

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1 of \$400. *See* 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a party's failure to  
 2 pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP")  
 3 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th  
 4 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

5 Plaintiff has not prepaid the \$400 in filing and administrative fees required to  
 6 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28  
 7 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a);  
 8 *Andrews*, 493 F.3d at 1051.

## 9 **II. CONCLUSION AND ORDER**

10 For the reasons set forth above, the Court hereby:

11 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the  
 12 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to  
 13 28 U.S.C. § 1914(a) and § 1915(a); and

14 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is  
 15 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; **or**  
 16 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust  
 17 account statement for the 6-month period preceding the filing of his Complaint. *See* 28  
 18 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).<sup>2</sup>

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 21 <sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1,  
 22 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a), (b); Judicial  
 23 Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However,  
 the additional \$50 administrative fee is waived if the plaintiff is granted leave to proceed IFP.  
*Id.*

24 <sup>2</sup> Plaintiff is cautioned that if he chooses to proceed further with this action either by  
 25 paying the full \$400 in civil and administrative fees required by 28 U.S.C. § 1914(a), or moving  
 26 to proceed IFP, his Complaint, which is currently comprised of a single page of unpunctuated  
 27 and nonsensical legal jargon seeking a "writ of attachment garnishment" for more than a hundred  
 28 million dollars against unidentified "agents" as well as Chief U.S. Supreme Court Justice John  
 Roberts and the President of the United States, will be screened and immediately dismissed as  
 frivolous pursuant to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(b). *See Lopez v. Smith*,  
 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) "not only  
 permits but requires" the court to sua sponte dismiss an *in forma pauperis* complaint that fails  
 to state a claim); *see also Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing  
 sua sponte screening required by 28 U.S.C. § 1915A(b) of all prisoner complaints).

1           **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff  
2 with this Court's approved form "Motion and Declaration in Support of Motion to  
3 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee  
4 or complete and submit the enclosed Motion to Proceed IFP within that time, this action  
5 shall remain dismissed without prejudice and without further Order of the Court.

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7 DATED: December 18, 2013

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9 HON. GONZALO P. CURIEL  
United States District Judge